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termine the extent to which they would allow them to be impeached.⁸ The present tendency of our courts is in the direction of the modern English view.⁴

This doctrine of the full recognition of the judgment of a foreign court is theoretically unimpeachable. Within the jurisdiction in which it is rendered a judgment in a personal action signifies that the law of that jurisdiction recognizes and asserts that the plaintiff has or has not certain legal rights and that the defendant is or is not under corresponding legal obligations.⁵ And, of course, within that jurisdiction those legal rights and liabilities thereafter exist so long as the judgment remains in force. Logically, it would seem, a court should recognize private rights acquired through a foreign judgment to exactly the same extent that it recognizes private rights acquired in any other manner under foreign laws.⁶ And although, aside from a question of comity, there is no reason in the nature of things why a court should recognize rights acquired under foreign law, yet if it recognizes them at all it should not discriminate against judgment rights.

But for the Constitution and Acts of Congress passed in pursuance of its provision requiring each state to give "full faith and credit" to judgments rendered in sister states, such judgments would be treated as foreign judgments, as they were before the formation of the Union.⁷ The early doctrine as laid down by Chief Justice Marshall was that the judgment of a state court when sued on in another state could not be impeached on its merits, even for fraud.⁸ The only ground for impeachment was lack of jurisdiction of the court rendering it. A dictum in a later case⁹ has been thought by some to mean that the original claim upon which the judgment of a sister state was based could be examined more extensively than was formerly supposed. A recent case, however, holds that a judgment of a Missouri court is not impeachable in Mississippi, even if the original claim is based upon a contract made in Mississippi and illegal under Mississippi law. *Fauntleroy v. Lum*, 210 U. S. 230. On principle, as already seen, the decision seems sound. It is an extreme case and should settle all further controversy as to the conclusiveness of sister-state judgments.

RECOVERY OF PAYMENTS MADE UNDER COMPULSION.—The general rule is that one cannot recover money voluntarily paid with full knowledge of the facts, although the claim in satisfaction of which the payment was made was, in fact, illegal.¹ The policy of the law denies that a man may take inconsistent positions, repudiate his acts, and disturb a settlement voluntarily made by him, even though no sufficient consideration was received.² But this objection is not applicable to acts done under compulsion. It is therefore well settled that in the absence of consideration payments made

⁸ Story, *Conflict of Laws*, 8 ed., 829.

⁴ *Ritchie v. McMullen*, 159 U. S. 235. They will not, however, go the full length of the English doctrine; for a foreign judgment is not regarded as conclusive when rendered by a state which does not reciprocally treat our judgments as conclusive. *Hilton v. Guyot*, 159 U. S. 113.

⁵ See 1 Black, *Judgments*, 2 ed., § 1.

⁶ *Godard v. Gray*, *supra*.

⁷ See *Buckner v. Finlay and Van Lear*, 2 Pet. (U. S.) 586, 592.

⁸ *Hampton v. McConnell*, 3 Wheat. (U. S.) 234.

⁹ *Wisconsin v. Pelican Ins. Co.*, 127 U. S. 265.

¹ *Elston v. City of Chicago*, 40 Ill. 514.

² *Peters v. R. R. Co.*, 42 Oh. St. 275.

involuntarily or under compulsion may be recovered at law. Recovery is founded, not, as in equity, on a rescission through the unfair advantage taken, but on a quasi-contract through failure of consideration. The effect of the compulsion is simply to explain the apparent inconsistency of the payment and the repudiation.⁸ This rule mitigates the harshness of the narrow common law doctrine of duress. For, whereas the equitable doctrine of undue influence is broad and sweeping, extending to all transactions in which one party has been deprived of a free and deliberate judgment,⁴ the common law doctrine of duress is limited to actual coercion, by injury to or unlawful imprisonment of the person, or threats of such injury or imprisonment.⁵

The test for determining what amounts to such compulsion as will justify a recovery under the rule must of necessity be somewhat vague, considering the infinite variety of possible situations. "There must be some actual or threatened exercise of power, possessed, or believed to be possessed, over the person or property of another, from which the latter has no other means of immediate relief than by paying."⁶ Hence it has been held that a payment is involuntary if made to prevent a wrongful taking or detention of the plaintiff's property,⁷ or to avoid injury to the plaintiff's business,⁸ or to induce the defendant to perform a duty.⁹ But in any event, although all the cases are not clear on the point, there must be some necessity actually existing or reasonably believed by the plaintiff to exist; otherwise he could withhold payment for a determination of the dispute at law. Failing that, he has no excuse for repudiating his act.

In a recent case a subscriber, with full knowledge of the facts (though probably not of the law) and without objection paid a telephone company a higher rate than it could legally charge. It was held that he could not recover. *Illinois Glass Co. v. Chicago Telephone Co.*, 234 Ill. 535. The absence of protest is not fatal to recovery, just as its presence will not make an otherwise voluntary payment involuntary.¹⁰ It is effective merely as evidence tending to show that compulsion was the inducing cause of the payment.¹¹ When the parties stand on unequal footing, as often happens in the case of a public service corporation and an individual, there is great opportunity for compulsion, and hence there may frequently be a recovery.¹² But the case seems correct in holding that the mere fact of inequality does not, as a matter of law, render the payment compulsory. If one objects that the result is unjust to the plaintiff, he should quarrel, not with the refusal of the court to extend the doctrine of compulsory payments, but with the rule which denies recovery of a payment made under a mistake of law.¹³ To recover on the former ground, the plaintiff should show not only the opportunity for compulsion, but that in fact compulsion was exercised and did induce the payment.

⁸ Pollock, *Contracts*, 3 Am. Ed., 732.

⁴ *Williams v. Bayley*, L. R. 1 H. L. 200.

⁵ *Skeate v. Beale*, 11 A. & E. 983.

⁶ *Radich v. Hutchins*, 95 U. S. 210; *Brumagin v. Tillinghast*, 18 Cal. 265.

⁷ *Baldwin v. Liverpool, etc.*, S. S. Co., 74 N. Y. 125.

⁸ *Swift & Co. v. U. S.*, 111 U. S. 220.

⁹ *Dew v. Parsons*, 2 B. & Ald. 562.

¹⁰ *Lamborn v. Commissioners*, 97 U. S. 181.

¹¹ *Wessel v. Land & Mortgage Co.*, 3 N. D. 160.

¹² *G. W. Ry. Co. v. Sutton*, L. R. 4 H. L. 226; *Peters v. R. R. Co.*, *supra*; *R. R. Co. v. Coal Co.*, 79 Ill. 121.

¹³ See 21 HARV. L. REV. 225.